

Retail Theft Offenses: Law & Data

Prepared January 2024 by the staff of the [Committee on Revision of the Penal Code](#)

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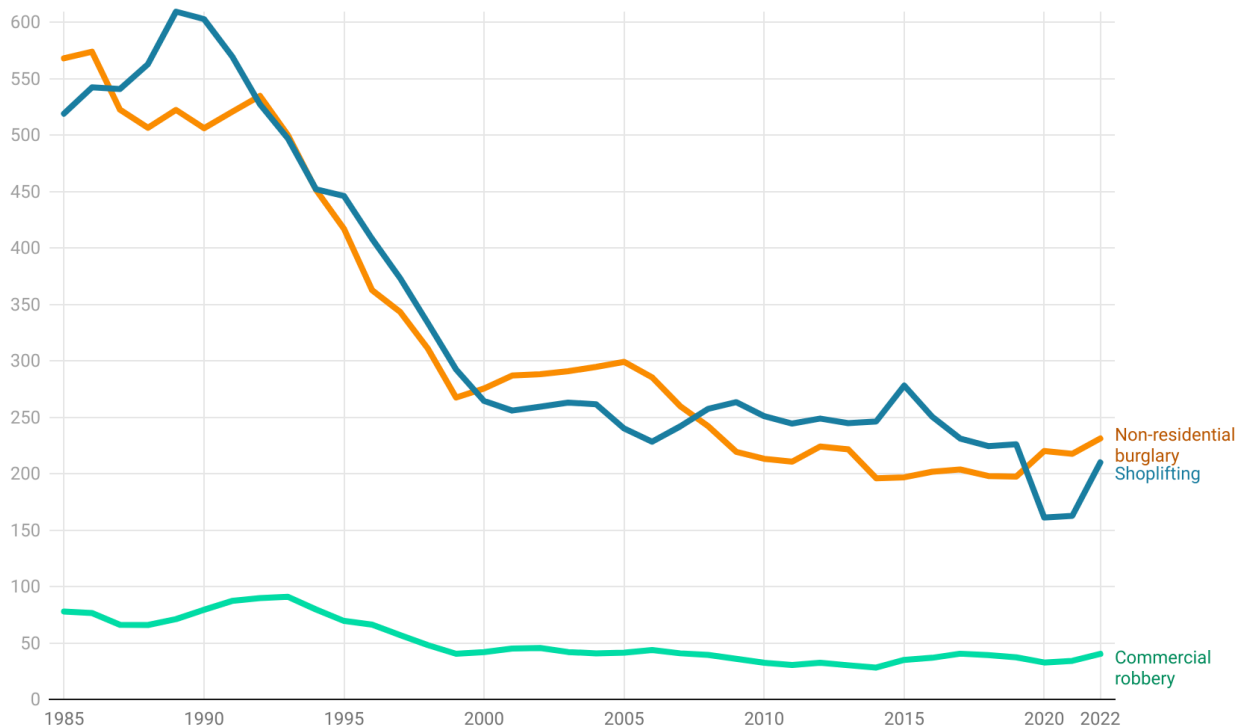
This document provides current law and data on offenses that can be used to arrest and charge people who steal from retailers. Because many discussions about retail theft revolve around the impact of Proposition 47 — a 2014 voter initiative that created the misdemeanor offense of shoplifting that applies when less than \$950 is taken — this document includes an examination of the impact of Proposition 47.

California is experiencing historic lows in its crime rates, including shoplifting.

- The data presented here comes from the California Department of Justice, which receives and publishes data from law enforcement agencies across California and covers 1985–2022. (Data from 2023 will not be available until summer 2024). Overall, violent crime was 55% lower in 2022 compared to the peak rate in 1992.¹ Property crime was 66% lower compared to the peak rate in 1980. As the chart below shows, shoplifting, non-residential burglary, and commercial robbery rates are at similar lows.

Shoplifting, non-residential burglary, and commercial robbery rates (1985–2022)

Rate is per 100,000 California population



Commercial robbery includes commercial houses, gas stations, and convenience stores.

Chart: Committee on Revision of the Penal Code • Source: California Department of Justice OpenJustice • Created with Datawrapper

¹ California Department of Justice, *Crime in California 2022*, Table 1.

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- The shoplifting rate in 2022 was 7% lower than pre-pandemic levels in 2019 and 15% lower than before Proposition 47 was passed in 2014.²
- The commercial robbery rate in 2022 was 8% higher than pre-pandemic levels in 2019, but around the same rate it was in 2017, and less than half the rate it was in the 1990s.³
- In 2022, the non-residential burglary rate⁴ — which in addition to burglaries of stores also includes burglaries from establishments such as offices, restaurants, and warehouses — was the highest it had been since 2008 but less than half the rate it was in 1995. Unlike shoplifting and commercial robbery, non-residential burglary rose during the early years of the pandemic. The data from the California Department of Justice does not indicate which non-residential burglaries were from retail stores and which were from other establishments.

Shoplifting rate in California (2010–2022)

Rate is per 100,000 population

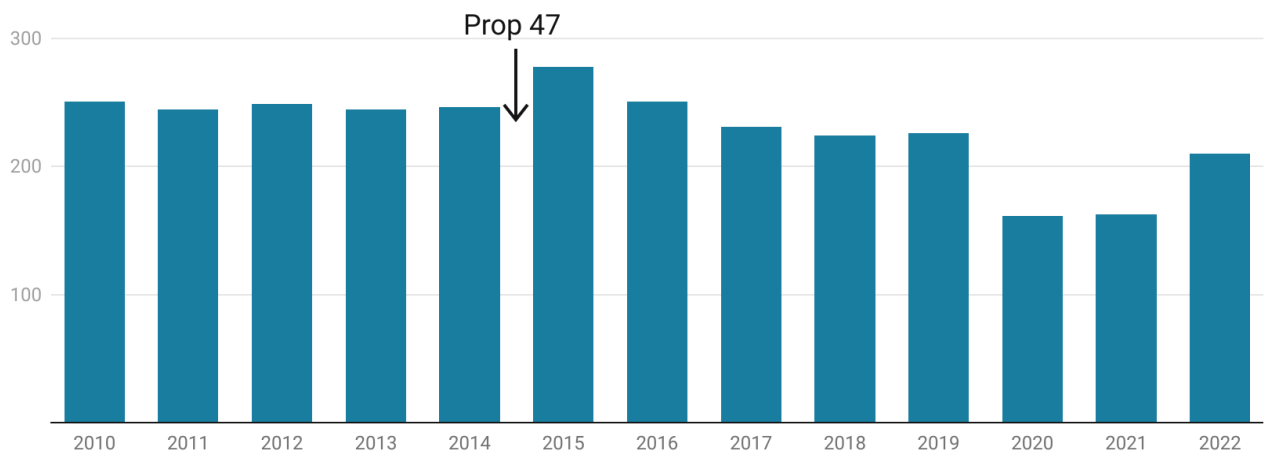


Chart: Committee on Revision of the Penal Code • Source: California Department of Justice OpenJustice • Created with Datawrapper

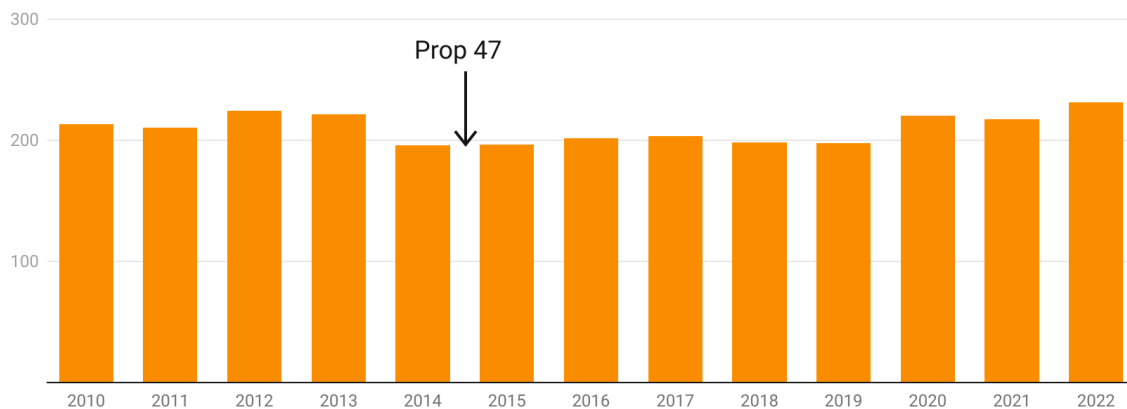
² The California Department of Justice has tracked shoplifting offenses as a type of larceny-theft since before 2014 when Proposition 47 created the specific shoplifting offense in Penal Code § 459.5. The DOJ shoplifting category apparently tracks thefts from stores regardless of the dollar amount taken, while the shoplifting offense created by Proposition 47 only applies when the value is less than \$950.

³ Robbery is using force or fear when stealing from another and is a felony strike offense under California law. See Penal Code § 667.5(c)(9). The California Department of Justice combines robberies from retail stores and other establishments, such as gas stations and convenience stores, to create its commercial robbery category. California Department of Justice, *Crime in California 2022*, Table 6.

⁴ Burglary is entering a structure with the intent to commit theft or a felony.

Non-residential burglary rate in California (2010–2022)

Rate is per 100,000 population

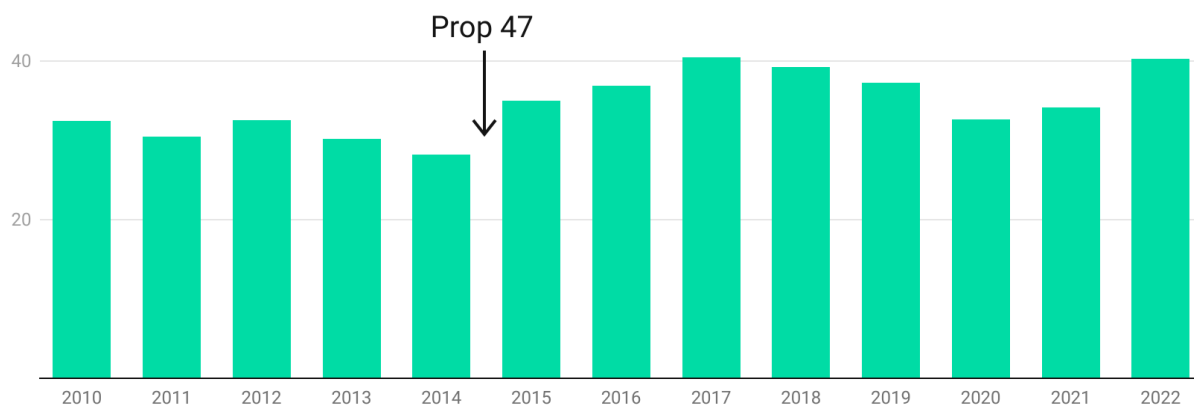


Burglary is entering a structure with the intent to commit theft or a felony.

Chart: Committee on Revision of the Penal Code • Source: California Department of Justice OpenJustice • Created with Datawrapper

Commercial robbery rate in California (2010–2022)

Rate is per 100,000 population



Commercial robbery includes commercial houses, gas stations, and convenience stores.

Chart: Committee on Revision of the Penal Code • Source: California Department of Justice OpenJustice • Created with Datawrapper

- Arrest rates for theft offenses are extremely low in California — in 2022, only 7% of larceny-theft crimes were “cleared” by police.⁵ (Shoplifting accounts for about 13% of larceny-theft crimes.)⁶

⁵ California Department of Justice, *Crime in California 2022*, Table 15.

⁶ California Department of Justice, *Crime in California 2022*, Table 11.

Current law allows punishment from 6 months in jail to 5 years in prison for common retail theft offenses.

- Shoplifting — when a person intends to steal less than \$950 in value from a store during business hours — is a misdemeanor and carries up to 6 months in jail.⁷
- Proposition 47 requires any case that meets the elements of shoplifting to be charged as shoplifting and not as another kind of theft or burglary.⁸ However, Prop. 47 did not change the applicability of more serious felony charges that can often be applied to retail theft. For example:
 - *Higher value thefts*: When a person steals (or intends to steal) more than \$950 of property from a store they can be charged with commercial burglary or grand theft. These felony offenses carry up to 3 years in county jail.⁹
 - *Multiple thefts*: The Penal Code — in a law passed unanimously by the Legislature in 2022 that codified case law from 1961¹⁰ — allows the value of property stolen over the course of “distinct but related acts” to be added together or “aggregated” to reach the \$950 threshold for felony grand theft.¹¹
 - *Multiple people*: In some circumstances, when 2 or more people work together to steal from a store or sell the stolen goods they can be charged with organized retail theft or conspiracy.¹² These felony offenses each carry up to 3 years in county jail. Research from the Council on Criminal Justice shows that only 5% of retail thefts nationwide involve more than two people.¹³
 - *Destroying property while stealing*: If any property valued over \$400 is destroyed — such as smashing a window or display case — during a theft, felony vandalism charges are available, with a sentence of up to 3 years in county jail.¹⁴

⁷ Penal Code § 459.5.

⁸ Prop. 47, § 5 (approved by voters Nov. 4, 2014); Penal Code § 459.5.

⁹ See Penal Code §§ 460, 461, 487, 489.

¹⁰ AB 2356. See *People v. Bailey*, 55 Cal.2d 514, 518–519 (1961). See also *People v. Columbia Research Corp.*, 103 Cal.App.3d Supp. 33 (1980) (“It is well settled in California law that in certain instances a series of petty thefts may be cumulated to constitute one charge of grand theft.”).

¹¹ Penal Code § 487(e).

¹² Penal Code §§ 182, 490.4.

¹³ Ernesto Lopez, Robert Boxerman, and Kelsey Cundiff, *Shoplifting Trends: What You Need to Know*, Council on Criminal Justice (November 2023).

¹⁴ Penal Code § 594(b).

- *Using force or fear while stealing:* The Penal Code defines robbery as taking any property, regardless of value, “accomplished by means of force or fear.”¹⁵ Hitting, threatening, or using a weapon against a store employee would almost certainly be treated as robbery, which is a violent “strike” offense and carries up to 5 years in state prison.¹⁶ Even a small amount of force will elevate a theft to a robbery.¹⁷
- If a person has a prior conviction for a “strike” under the Three Strikes law, any felony sentence can be doubled and they must serve the sentence in state prison.¹⁸
- **Consecutive sentences:** When a person is convicted of two or more unrelated retail theft offenses, like stealing from different stores or the same store at different times, they can be sentenced consecutively for each offense which results in a longer sentence.¹⁹ In misdemeanor cases, consecutive terms are added at their full length.²⁰ For example, a person convicted of 3 counts of shoplifting could be sentenced to 6 months for each incident for a total sentence of 18 months.²¹

¹⁵ Penal Code § 211.

¹⁶ See Penal Code §§ 213, 667.5(c)(9). Using a weapon during the commission of a robbery can also result in an enhancement that adds between 1 and 10 years in state prison. See Penal Code §§ 12022, 12022.53.

¹⁷ “The force need not be great. An accepted articulation of the rule is that all the force that is required to make the offense a robbery is such force as is actually sufficient to overcome the victim’s resistance.” *People v. Montalvo*, 36 Cal.App.5th 597, 618 (2019) (cleaned up). California law also permits “*Estes*” robberies, which allows a theft to be charged as a robbery if the person stealing physically resists attempts to stop them leaving the store. See *People v. Estes*, 147 Cal. App. 3d 24 (1983); *People v. Cortez*, 2023 WL 3402935 (2023) (*Estes* robbery where defendant “pushed” store employee after taking a toy car valued at \$399 on Christmas Eve); *People v. Dean*, 2008 WL 4917565 (2008) (*Estes* robbery where female defendant was “uncooperative” with two male security guards, including one who had “grabbed her by both arms and took her back into the store” after she had stolen “deodorant, cheese, meat, and two avocados”); *People v. Garcia*, 2004 WL 886377 (2004) (affirming 35-years-to-life sentence for an *Estes* robbery where the defendant stole 10 bottles of cologne, ran from a store manager and security guard, and tore the manager’s shirt sleeve in a struggle after they caught the defendant).

¹⁸ Penal Code §§ 669(a), 1170.1(a).

¹⁹ Penal Code §§ 669(a), 1170.1(a).

²⁰ See *People v. Erdelen*, 46 Cal.App.4th 86 (1996). See also *People v. Brown*, 247 Cal.App.4th 1430 (2016) (holding that the full term for misdemeanor resisting a peace officer was authorized to run consecutively to sentence for felony resisting arrest by violence or threats). In felony cases, consecutive sentences can add one-third of the middle term for each additional felony or enhancement. Penal Code §§ 1170.1(a), 1170.11.

²¹ Penal Code § 459.5.

Police officers can arrest people and book them into jail for shoplifting and other retail theft offenses.

- California law requires police to use cite-and-release procedures — which include detaining a person while officers collect information about the person and offense before releasing them with a notice to appear — for most misdemeanor offenses, including shoplifting.²² But this procedure has several exceptions that allow law enforcement to hold people in custody even for misdemeanors:
 - the person has recently committed another retail theft,
 - the person is suspected of committing organized retail theft,
 - the person seems unlikely to appear in court, or
 - public safety would be endangered by the person's release.²³

The decision of whether to apply one of these exceptions is a discretionary call made by individual police officers guided by department policy and not is reviewed by a court or prosecutor.²⁴

- Other retail theft offenses, such as grand theft, burglary, and robbery are felonies and the misdemeanor cite-and-release rules do not apply.²⁵
- In 2023, the Los Angeles Police Department made 75% more arrests for theft compared to 2022 — far outpacing a 4% increase in reported thefts.²⁶

²² Using this procedure, instead of holding the arrested person in custody, police officers prepare a notice to appear in court that has the name and address of the arrested person, the offense charged, and the time and place of the court date. Once the arrested person gives their promise to appear in court by signing the form, they are released either directly into the community or from the police station or jail after being booked. Police are required to file a duplicate of the notice and any underlying police reports supporting the charges with the court or district attorney. See Penal Code § 853.6(a), (d), (e), (g).

²³ Penal Code § 853.6(i).

²⁴ The use of cite-and-release for lower-level offenses is common among law enforcement agencies throughout the county — a 2016 report from the International Association of Chiefs of Police found that 87% of agencies used the practice and that 80% of them had done so for over 10 years. *Citation in Lieu of Arrest: Examining Law Enforcement's Use of Citation Across the United States*, International Association of Chiefs of Police (April 2016).

²⁵ Penal Code § 836(a).

²⁶ Los Angeles Police Department, COMPSTAT Citywide Profile 12/03/23 to 12/30/23.

Many other states have raised theft thresholds with no resulting increase in crime rates.

- The Legislature raised the monetary threshold that must be met to charge theft as felony grand theft from \$400 to \$950 in 2010.²⁷ However, even after this change in the law raising the theft threshold, prosecutors could still charge shoplifters with felony commercial burglary, regardless of the amount of loss. Prop. 47, which passed in 2014, closed this loophole by requiring thefts under \$950 to be charged as misdemeanor shoplifting.²⁸
- In 2017, the Pew Charitable Trusts analyzed crime rates in over 30 states that have raised their felony theft thresholds since 2001 and concluded that increasing theft thresholds did not increase overall property crime or theft rates.²⁹

²⁷ AB 2372 (Ammiano 2010).

²⁸ Proposition 47, § 5 (approved by voters Nov. 4, 2014); Penal Code § 459.5.

²⁹ Adam Gelb et al., *The Effects of Changing State Theft Penalties*, The Pew Charitable Trusts (April 2017). See also Jake Horowitz, *States Can Safely Raise Their Felony Theft Thresholds, Research Shows*, The Pew Charitable Trusts, May 22, 2018.

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- 41 states and the District of Columbia currently have higher felony theft thresholds than California's \$950 threshold.

California's felony theft threshold is among the lowest in the United States

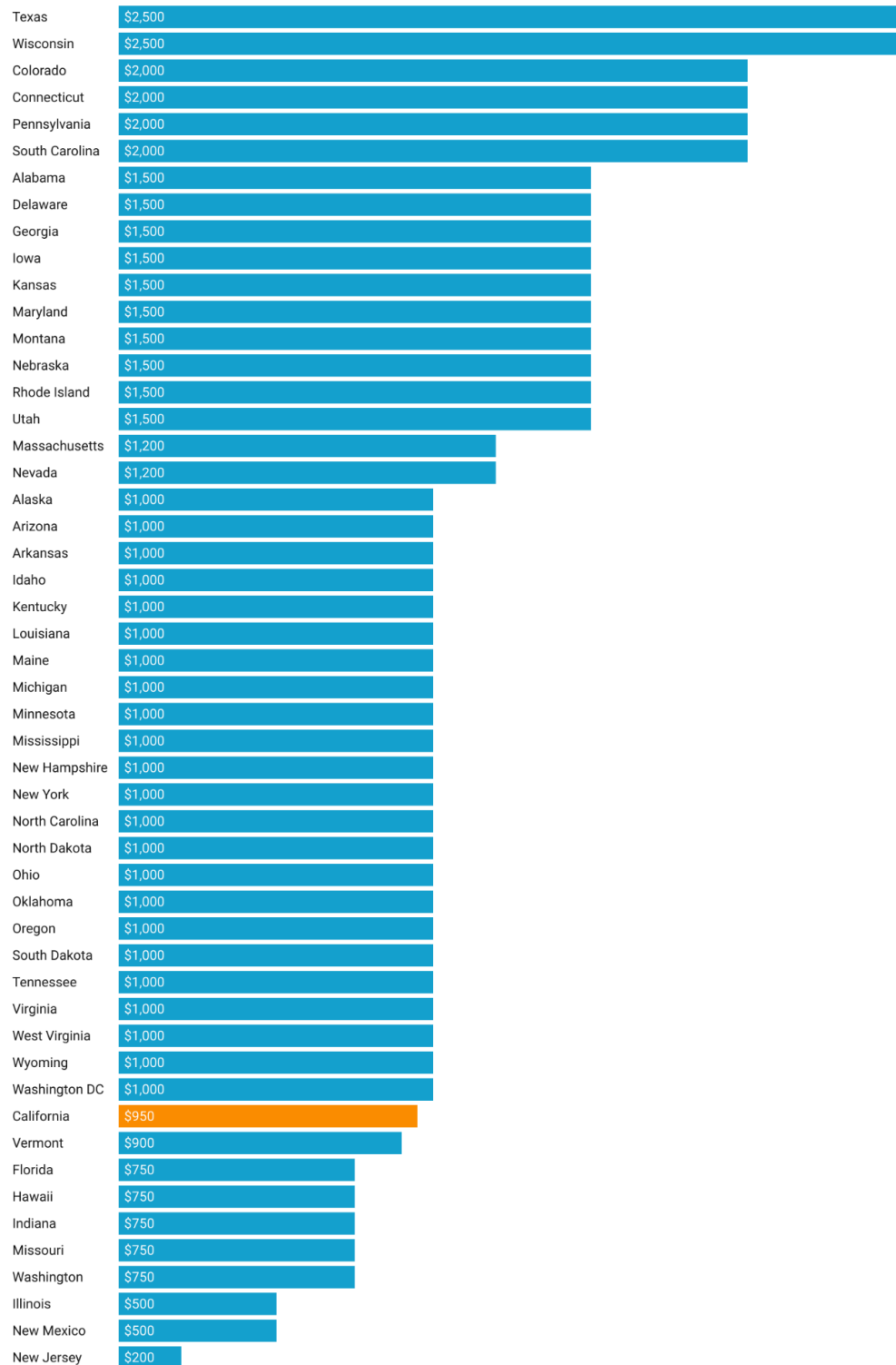


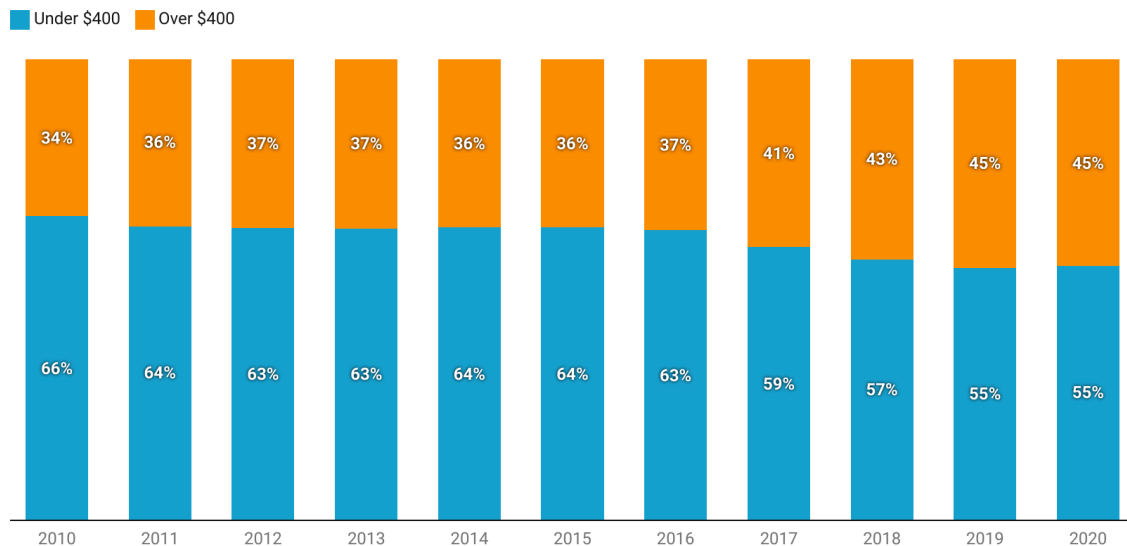
Chart: Committee on Revision of the Penal Code • Source: Raisethethreshold.org • Created with Datawrapper

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- Even if the felony theft threshold was lowered to \$400 — the threshold before the Legislature updated it in 2010 — the majority of all thefts committed in California would still be misdemeanors or infractions.³⁰ The Department of Justice does not report specific data on the value of shoplifting, but as noted above, shoplifting comprises about 13% of all larceny-theft offenses.³¹

Most thefts in California are under \$400



Graphics ends in 2020 because the California Department of Justice changed how it reported theft values beginning in 2021. To comply with a new crime reporting system, beginning with data in 2021, the data only indicates whether the value is under \$50, \$50 to \$199, or over \$200. See California Department of Justice, *Crime in California 2022*, Table 11.

Chart: Committee on Revision of the Penal code • Source: California Department of Justice, *Crime in California*, Table 11 • Created with Datawrapper

- Inflation changes the nature of theft crimes because the value of the same property increases over time while the threshold stays the same. For example, according to the U.S. Bureau of Labor Statistics, \$950 in January 2011 (when the \$950 threshold became effective) has the same buying power as \$1,324 today — a 39% difference.³²

³⁰ Thefts under \$50 can be prosecuted as misdemeanors or infractions, the latter of which cannot result in incarceration. Penal Code §§ 19.6, 490.1. This \$50 cutoff has been the law since 1992. See AB 1826 (Bentley 1991).

³¹ California Department of Justice, *Crime in California 2022*, Table 11.

³² U.S. Bureau of Labor Statistics, CPI Inflation Calculator.

Research on the impact of Prop. 47 has consistently found it did not increase crime.

- Proposition 47 was a voter initiative that passed with 60% of the vote in 2014. Among other provisions, it reduced certain drug possession felonies to misdemeanors and required misdemeanor sentencing for some theft crimes, including shoplifting, where the value of stolen property does not exceed \$950.
- There have been two rigorous studies of the impact of Prop. 47 on crime rates. Both studies found Prop. 47 did not increase violent crime. One study found no impact on property crime.³³ The other found a moderate increase in larceny-theft and in particular thefts from cars.³⁴
- Research conducted by the Public Policy Institute of California found that Prop. 47 reduced recidivism³⁵ and reduced racial disparities.³⁶

³³ Charis Kubrin and Bradley Bartos, *Fact Sheet: Proposition 47 and Crime* (2018). The full study is Bradley J. Bartos and Charis E. Kubrin, *Can We Downsize Our Prisons and Jails Without Compromising Public Safety? Findings from California's Prop 47*, *American Society of Criminology*, Volume 17, Issue 3 (2018).

³⁴ Mia Bird, Magnus Lofstrom, Brandon Martin, Steven Raphael, and Viet Nguyen, *The Impact of Proposition 47 on Crime and Recidivism*, Public Policy Institute of California, 3, 7, 12–13 (June 2018). The researchers also noted that “that we should be cautious not to overstate Prop 47’s impact on property crime” because additional modeling showed less of an impact. *Id.* at 13.

³⁵ Mia Bird, Magnus Lofstrom, Brandon Martin, Steven Raphael, and Viet Nguyen, *The Impact of Proposition 47 on Crime and Recidivism*, Public Policy Institute of California, 16-18 (June 2018). While the two-year rearrest rate for property offenses was the same for people sentenced before and after Prop. 47, the two-year reconviction rate was 4.2 percentage points lower for the post-reform group. *Id.*

³⁶ Magnus Lofstrom, Brandon Martin, and Stephen Raphael, *Proposition 47’s Impact on Racial Disparity in Criminal Justice Outcomes*, Public Policy Institute of California (June 2020).

Recent actions by the Legislature and Governor addressing retail theft.

- In 2018, the Legislature passed and the Governor signed AB 1065 (Jones-Sawyer), which:
 - Created the crime of “organized retail theft.”
 - Added repeat retail-theft exception to the misdemeanor cite and release law.
 - Expanded the jurisdiction of counties to prosecute retail theft by establishing that counties have jurisdiction to prosecute retail theft if the merchandise was stolen or received in the county, recovered in the county, or if any act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense in the county.
 - Required the California Highway Patrol and Department of Justice to convene a regional property crimes task force to assist local law enforcement in counties that have elevated levels of property crime.
- In 2022, the Legislature passed and the Governor signed AB 2356 (Rodriguez), which codified existing caselaw to specify that the value of property stolen over the course of distinct but related acts can be aggregated to reach the \$950 threshold.³⁷
- In 2023, more than \$250 million was awarded to 55 local law enforcement agencies across California to increase arrests and prosecutions for organized retail crime.³⁸

³⁷ AB 2356 (Rodriguez 2022). See *People v. Bailey*, 55 Cal.2d 514, 518–519 (1961).

³⁸ See Office of Governor Gavin Newsom, *California Approves Hundreds of Millions to Crack Down on Organized Retail Crime*, September 14, 2023.

Support Law Enforcement Assisted Diversion (LEAD)

RECOMMENDATION

With LEAD, instead of jail, police officers take people directly to community-based service providers who deliver continuing care based on the person's specific needs. LEAD pilot projects in San Francisco and Los Angeles demonstrated that LEAD significantly reduces recidivism among participants. But state funding has expired and the COVID-19 pandemic may have also stalled momentum for the development of LEAD programs in additional cities.

The Committee therefore recommends the following:

1. Re-establish LEAD pilot programs with the following specifications:
 - Eligible offenses include those in the original LEAD pilot (drug possession, subsistence sales, and prostitution), *and* offenses related to theft, burglary, and trespassing.
 - Allow counties to further expand the list of eligible offenses.
2. Update Penal Code § 849 to encourage police officers in all jurisdictions (even those without LEAD programs) to release people arrested for low-level offenses to community-based supportive services in lieu of jail booking and referral to prosecution.

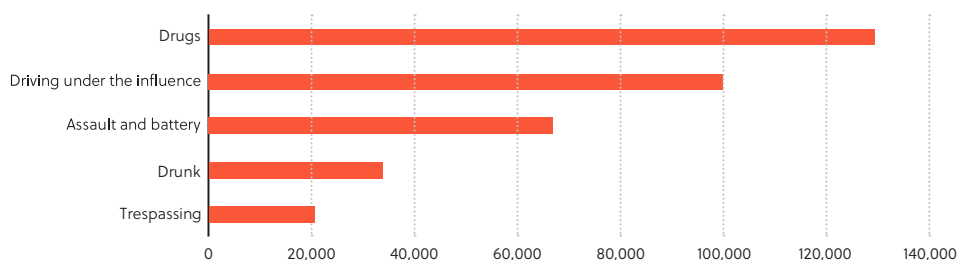
RELEVANT STATUTES

Penal Code §§ 849, 1001.85–1001.88.

BACKGROUND AND ANALYSIS

Low-level offenses dominate California's criminal legal system — 88% of current arrests are for misdemeanors and nonviolent felonies.²⁸ Arrests for drug-related offenses continue to make up a large portion of all arrests even after Proposition 47 reduced the penalty for drug possession.²⁹ Many arrests are of the same people who frequently come into contact with police for issues related to homelessness, mental illness, or substance abuse.

MOST FREQUENT ADULT MISDEMEANOR ARRESTS (2022)

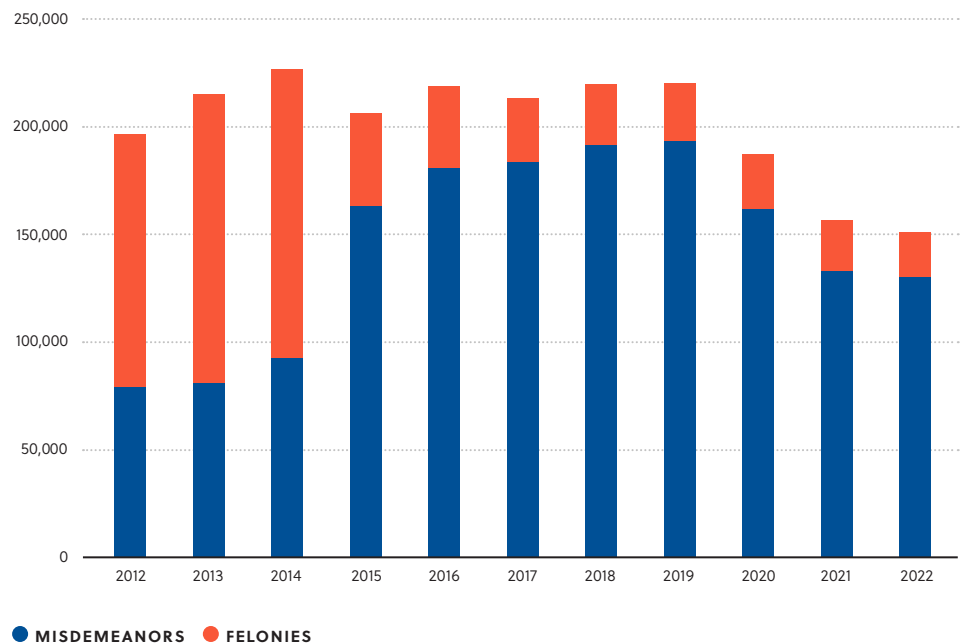


²⁸ California Department of Justice, *Crime in California 2022*, Tables 30 & 31.

²⁹ California Department of Justice, *Crime in California 2016*, Tables 19 & 25; California Department of Justice, *Crime in California 2022*, Tables 19 & 25.

Source: California Department of Justice, *Crime in California 2022*, Table 28.

ARRESTS FOR DRUG OFFENSES (2012–2022)



Source: California Department of Justice, *Crime in California 2016 & 2022*, Tables 19 & 25. Includes adult and juvenile arrests.

A unique approach first developed in Seattle – Law Enforcement Assisted Diversion (LEAD) – has shown that connecting this group of people with supportive services is better for public safety than the traditional jail booking and prosecution process.

In 2016, California established the LEAD Pilot Program which allotted \$15 million in funding over 2.5 years.³⁰ San Francisco and Los Angeles received funding, most of which was for housing, case management, and other health services for LEAD participants.³¹ In each county, the pilots proved successful in reducing future arrests of people who received LEAD intervention compared to similar people who were arrested and brought to jail.³²

Dr. Aili Malm of California State University Long Beach helped evaluate the pilot projects for the Legislature and told the Committee that the LEAD pilot programs were extremely effective, but also faced significant barriers, including lack of police officer enthusiasm, and disruption from the COVID-19 pandemic.³³

While momentum may have stalled LEAD in some places, Los Angeles County has expanded its program to serve more people. Los Angeles County Sheriff's Department Captain Geoffrey Deedrick, who supervised the implementation of LEAD in his department, told the Committee that LEAD enhanced community safety by putting frequently-arrested people on a path to success.³⁴ Long Beach City Prosecutor Doug Haubert – who is responsible for prosecuting all misdemeanors in the city of Long Beach – told the Committee that his office is working on making LEAD operational in all of Long Beach instead of focusing on a specific area.³⁵

30 Penal Code §§ 1001.85–1001.88.

31 Aili Malm, Dina Perrone, and Erica Magaña, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature*, 119, Table 7-3 (January 2020). See also Aili Malm and Dina Perrone, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature — 2020 Addendum*, 15, Table 2-3 (January 2021).

32 Aili Malm, Dina Perrone, and Erica Magaña, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature*, 14, 55 (January 2020). See also Aili Malm and Dina Perrone, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature — 2020 Addendum*, 13–14 (January 2021).

33 Committee on Revision of the Penal Code meeting on June 23, 2023, Part 1 of 4, 0:04:35–0:11:38.

34 *Id.* at 0:25:06–0:26:11.

35 *Id.* at 0:40:30–0:40:56. The initial LEAD pilot was limited to North Long Beach.

While the LEAD program in San Francisco was terminated after the completion of the pilot, San Francisco Chief of Police Bill Scott has recently said he wants to reintroduce the program to help address the city's drug problem.³⁶

The original LEAD pilot was targeted at low-level offenses, particularly those related to drugs and prostitution, and the only felony eligible for LEAD was subsistence drug sales.³⁷ Other low-level felonies such as burglary and theft were not eligible, nor were many common misdemeanors like theft and trespassing.³⁸ Erica Shehane, Los Angeles County Office of Diversion and Reentry Director for LEAD, told the Committee that any new LEAD pilot program should expand the list of eligible crimes and give counties the flexibility to decide to make additional offenses LEAD-eligible.³⁹

In addition to expanding eligible offenses in the pilot program, the Penal Code should encourage law enforcement agencies that do not have official LEAD programs to develop similar pre-booking diversion practices. There is no law that prevents counties that did not receive pilot funding from implementing LEAD or similar programs and some counties have done so.⁴⁰

Additionally, current law, Penal Code section 849, allows officers to release an arrested person without further proceedings in some circumstances, including when a person is under the influence of drugs and delivered to a hospital for treatment.⁴¹ But this law does not authorize release to LEAD or similar programs. As explained to the Committee by Los Angeles Sheriff's Department Captain Geoffrey Deedrick, a Penal Code provision specifically authorizing officers to use pre-booking diversion (through LEAD or other similar programs) would empower more officers to use their discretion to divert appropriate cases.⁴²

Expanding Penal Code section 849 to allow police officers to refer someone to community-based supportive service programs like addiction or mental health counseling rather than taking them to jail would achieve this goal.

Recognizing that LEAD has proven to be a more effective and efficient model for addressing minor offenses than arrest and prosecution, the state should increase the use of LEAD and similar programs throughout the state.

EMPIRICAL RESEARCH

An evaluation by researchers from California State University, Long Beach of the LEAD pilot project in San Francisco and Los Angeles showed the following results:

- In San Francisco, at the 12-month follow-up period, felony arrests for non-LEAD participants were 257% higher and misdemeanor arrests were 623% higher compared to similarly-situated people who did participate in LEAD.⁴³
- In Los Angeles, at the 12-month follow-up period, felony arrests for non-LEAD participants were 537% higher and misdemeanor arrests were 153% higher.⁴⁴
- The lower recidivism for LEAD clients translated into significant cost savings over system-as-usual individuals.⁴⁵

36 David Sjustedt, *San Francisco Police Chief Pushes To Restart Program to Help Drug Users*, The San Francisco Standard, June 23, 2023.

37 Penal Code § 1001.87(b).

38 *Id.*

39 Committee on Revision of the Penal Code meeting on June 23, 2023, Part I of 4, 0:22:53–0:24:12.

40 See Sara Bastomski, Lindsey Cramer, and Emily Reimal, *Evaluation of the Contra Costa County Law Enforcement Assisted Diversion Plus Program*, Urban Institute (August, 2019); *City Response*, City of Stockton.

41 Penal Code § 849.

42 Committee on Revision of the Penal Code meeting on June 23, 2023, Part I of 4, 1:07:10–1:07:43. An example of this type of provision can be found in Washington state, which in addition to establishing grant funding for LEAD programs, directs police officers to offer any person arrested for possession of drugs a referral to supportive services, including but not limited to LEAD, in lieu of booking. RCWA §§ 10.31.115, 36.28A.450.

43 Aili Malm, Dina Perrone, and Erica Magaña, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature*, 8 (January 2020).

44 Aili Malm and Dina Perrone, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature — 2020 Addendum*, 6 (January 2021). This data has been updated from this Report's original release on December 19, 2023, to more precisely reflect how it was presented in the research.

45 Aili Malm, Dina Perrone, and Erica Magaña, *Law Enforcement Assisted Diversion (LEAD) External Evaluation Report to the California State Legislature — 2020 Addendum*, 6 (January 2021). This data has been updated from this Report's original release on December 19, 2023, to more precisely reflect how it was presented in the research.

INSIGHT FROM OTHER JURISDICTIONS

Former Albany, New York Police Chief and Director of Policing Strategies for the LEAD National Support Bureau, Brendan Cox told the Committee that his organization assists many states and localities in the development and implementation of LEAD programs.⁴⁶ States including Colorado, Maryland, New Mexico, and Washington have established state-funded LEAD programs.⁴⁷ Other states, including New Jersey, have secured grant funding to establish LEAD programs.⁴⁸

Notably, in New Jersey, the list of LEAD-eligible offenses is more expansive than what was included in California's pilot program and includes theft, fraud, and trespass offenses.⁴⁹

The Narcotics Arrest Diversion Program in Chicago, Illinois is a program similar to LEAD that allows police officers to connect people arrested for drug possession with a substance use counselor in lieu of proceeding with the traditional criminal process.⁵⁰ Unlike in LEAD, arrested people are taken to jail to be connected with a service provider stationed in the facility, though once the person is connected to the program they face no prosecution related to the arrest.⁵¹ Researchers from the University of Chicago Crime Lab and Vanderbilt University found that over 79% of people who are diverted go on to start treatment, and that nearly half of those who start treatment remain engaged 60 days after.⁵²

⁴⁶ Committee on Revision of the Penal Code meeting on June 23, 2023, Part 1 of 4, 0:45:33–0:45:39.

⁴⁷ Colorado Senate Bill 17-207 (2017 Regular Session); Maryland House Bill 432 (2018 Regular Session); New Mexico House Bill 453 (First Session, 2019); Washington Substitute Senate Bill 5380 (2019 Regular Session).

⁴⁸ See State of New Jersey Department of Law & Public Safety, Law Enforcement Assisted Diversion.

⁴⁹ Committee staff received this information from the New Jersey Office of Attorney General.

⁵⁰ See Ashna Arora and Pankla Bencsik, *Policing Substance Use: Chicago's Treatment Program for Narcotics Arrests*, University of Chicago Crime Lab (November 2021).

⁵¹ *Id.* at 2.

⁵² *Id.* at 3.